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Paper No. 13

In re Application of :
Hung Chen *et al* : DECISION ON PETITION
Application No. 09/728, 038 :
Filed: December 1, 2000 :
Attorney Docket No. AMA/3778/CAMP/CAMP/RKK :

The petition filed on August 19, 2003 is being treated as a request for reconsideration of the Decision on Petition dated July 21, 2003 (paper No. 11) in which the petition to withdraw the holding of abandonment filed on June 16, 2003 was denied. The request for reconsideration is being considered under 37 CFR 1.181, and no fee is required.

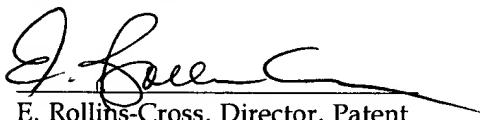
The request for reconsideration is denied.

A review of the record shows that the basis for denial of the original petition was that petitioners had not replied to the final rejection dated October 23, 2002 by filing a reply thereto that was in accordance with 37 CFR 1.113 and 1.116.

Petitioners' request for reconsideration is not responsive to the holding in the paper No. 11. As noted in the paper No. 11, petitioners' had a duty under the above cited regulations to file a proper reply to the final rejection. To the extent that petitioners believed the amendment after final rejection that was filed was a proper reply, but did not receive notification from the Office regarding that reply, it was petitioners' burden under the regulations to seasonably inquire as to the status of that reply. In the absence of information from the Office that the reply after final was acceptable, and in the absence of any information at all regarding the reply after final, petitioners' could not safely assume that they had satisfied the requirements of 37 CFR 1.113 and 1.116. Contrary to petitioners' argument at page two, second full paragraph of the request for reconsideration, the ability to inquire regarding the status of the amendment after final action, and the ability to file a reply that petitioners could know would be in compliance with 37 CFR 1.113 and 1.116, as opposed to filing a reply that was "believed" to be in compliance, were at all times within petitioners' control.

The request for reconsideration has been granted to the extent that the original petition has been carefully reconsidered, together with the record as a whole including the points raised in the request for reconsideration. However, the request does not provide any basis for granting any substantive relief and the granting of the requested relief is denied.. It appears that petitioners' remedy is to proceed pursuant to 37 CFR 1.137.

REQUEST FOR RECONSIDERATION DENIED.


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Examining Groups 3710 and 3720

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